

Draft Only
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SUMMARY *of* PROCEEDINGS



JOINT APPROPRIATIONS COMMITTEE

COMMITTEE MEETING INFORMATION

July 17 and 18, 2017
Jeffrey Memorial Community Center
Rawlins, Wyoming

COMMITTEE MEMBERS PRESENT

Senator Bruce Burns, Co-Chairman
Representative Bob Nicholas, Co-Chairman
Senator Dan Dockstader
Senator John Hastert
Senator Bill Landen
Representative Donald Burkhart, Jr.
Representative Lloyd Larsen
Representative Andy Schwartz
Representative Albert Sommers
Representative Tom Walters
Representative Sue Wilson

COMMITTEE MEMBERS NOT PRESENT

Senator Ogden Driskill

OTHER LEGISLATORS PRESENT

Senator Stephan Pappas
Representative Tom Crank
Representative Clark Stith
Representative Pat Sweeney

LEGISLATIVE SERVICE OFFICE STAFF

Don Richards, Budget & Fiscal Administrator
Dawn Williams, Senior Fiscal Analyst
Tamara Rivale, Staff Attorney

The Committee Meeting Summary of Proceedings (meeting minutes) is prepared by the Legislative Service Office (LSO) and is the official record of the proceedings of a legislative committee meeting. This document does not represent a transcript of the meeting; it is a digest of the meeting and provides a record of official actions taken by the Committee. All meeting materials and handouts provided to the Committee by the Legislative Service Office, public officials, lobbyists, and the public are on file at the Legislative Service Office and are part of the official record of the meeting. An index of these materials is provided at the end of this document. For more information or to review meeting materials, please contact the Legislative Service Office at (307) 777-7881 or by e-mail at lso@wyoleg.gov. The Summary of Proceedings for each legislative committee meeting can be found on the Wyoming Legislature's website at <http://legisweb.state.wy.us>.

OTHERS PRESENT AT MEETING

Please refer to [Appendix 1A](#) to review the Committee Sign-in Sheets for a list of other individuals who attended the meeting.

EXECUTIVE SUMMARY

The Joint Appropriations Committee (JAC) met for two days in Rawlins. On the first day, the Committee heard from the Departments of Family Services, Administration and Information and Enterprise Technology Services regarding interim topics and received a report of the State Treasurer's Office investment team expansion. The Committee concluded the day with a tour of the Wyoming State Penitentiary (WSP). On the second day, the Committee conducted a comprehensive discussion of issues at the WSP, including a summary of the 2016 Task Force on State Penal Facilities activities, JAC penal facility subcommittee actions, engineering reports, alternative options for prison construction and management, as well as presentations from the Department of Corrections.

CALL TO ORDER (JULY 17, 2017)

Co-Chairman Burns called the meeting to order at 8:08 a.m. The following sections summarize the committee proceedings by topic. Please refer to [Appendix 1B](#) to review the committee meeting agenda.

DEPARTMENT OF FAMILY SERVICES, TITLE IV-E FOSTERCARE

Tom Forslund, Director of the Departments of Health and Family Services and Korin Schmidt, Deputy Director of the Department of Health and Senior Administrator for the Department of Family Services addressed JAC interim topic #4, which directed the Committee to investigate efforts and opportunities for increased federal Title IV-E reimbursement in order to maximize State resources. After a discussion of IV-E eligibility determination and challenges, Ms. Schmidt indicated that no significant savings are to be achieved from additional IV-E collections. ([Appendix 2](#))

STATE EMPLOYEE BENEFITS – REVIEW

Don Richards, LSO Budget and Fiscal Administrator, introduced background materials he prepared and assembled pursuant to JAC interim topic #3, which directed the Committee to review state employee and retiree benefits. ([Appendix 3A](#)) Mr. Richards led the Committee through several documents, including a comprehensive summary of employee benefits; the 2015 Total Compensation Study prepared by the Hay Group; current classification and pay structures; average and median pay rates; statutory duties of the Department of Administration and Information (A&I); and a history of statewide salary increases.

Department of Administration and Information (A&I)

Dean Fausset, A&I Director, Tricia Bach, A&I Human Resources Manager, and Erin Williams, A&I Agency Services Manager, addressed Committee questions and further explained the Hay Study. Mr. Fausset reviewed major outcomes, including a new job classification system with five (5) pay plans, which enables the Human Resources Division to conduct consistent annual compensation comparison studies.

The Committee discussed the impact of sick and annual leave payouts to agency budgets and requested that future vacancy reports submitted by A&I to JAC indicate whether a position is being held open in order to accommodate funding for such a purpose. The Committee asked Mr. Richards to report the results of Section 320(a)(i) of 2017 HB0001 thus far, which directed the executive branch to eliminate positions to achieve general fund savings. He explained that more than 200 generally funded, full-time positions were filled from January 2017 through April 2017. Had those positions remained vacant,

approximately \$16 million would have been generated to be returned to the General Fund during the current 2017-2018 biennium.

Wyoming Retirement System

Ruth Ryerson, Executive Director of the Wyoming Retirement System and Polly Scott, Deferred Compensation & Communications Manager, addressed the Committee and presented a report of retirement system successes and challenges to the JAC. ([Appendix 3B](#)) Ms. Ryerson stated that overall retirement plan earnings are ahead of benchmark estimates and answered Committee questions concerning the 457 deferred compensation plan, 2017 early retirement legislation, contribution rates and the impact of early retirement elections to the Public Employees' Pension Plan, in particular. Ms. Ryerson further indicated that the Paid Firefighter A plan has an unfunded liability of \$81.5 million and that the current balance of funds is projected to be exhausted within 10 years.

ENTERPRISE TECHNOLOGY SERVICES (ETS)

Don Richards, LSO Budget and Fiscal Administrator referred the Committee to background materials he prepared according to JAC interim topic #2, which directed the Committee review the status, benefits and opportunities for re-structuring or continued consolidation of information technology (IT) services, as well as to review statewide hardware and software costs and purchasing practices. ([Appendix 4A](#))

Tony Young, Department of Enterprise Technology Services (ETS) Chief Information Officer (CIO), Meredith Bickell, Deputy CIO and Jackie Childress, Business Services Manager, presented a proposal to modify ETS processes and budgeting. Mr. Young proposed the Committee realign the appropriation of funds to ETS within the upcoming 2019-2020 biennial budget, revise the direct bill program and consider other consolidation efforts. ([Appendix 4B](#)) The Committee and Mr. Young discussed arguments against consolidation, level of services provided, agency information technology requests, and compatibility of systems used by the judicial, executive and legislative branches.

STATE TREASURER

Mark Gordon, State Treasurer, Pat Arp, Deputy State Treasurer and Patrick Fleming, Chief Investment Officer, discussed implementation of provisions in the 2017 Supplemental Budget Bill to expand the investment team. Mr. Fleming expressed concern over the volatility that results from the use of total management fees saved as a benchmark for funding the expansion and suggested the use of basis points based upon "assets under management" as an alternative, retaining the \$3,000,000 cap. ([Appendix 5](#)) Ms. Arp reported that savings realized to date total \$2,579,120.

MEETING RECESS

The meeting recessed at 1:35 p.m. in order for Committee members to tour the Wyoming State Penitentiary (WSP).

SECOND DAY (JULY 18, 2017)

Chairman Nicholas called the meeting to order at 8:00 a.m. Upon the motion of Representative Larsen, the Committee resolved itself into executive session, without objection, in order to present confidential materials provided by the Department of Corrections, specifically maps and schematics that could potentially jeopardize the security of the Wyoming State Penitentiary if disclosed during open session.

REPORT OF STATE PENAL FACILITY SUBCOMMITTEE ACTIONS

At 8:10 a.m. following the brief executive session, the Committee resolved into open session. Tamara Rivale, LSO Staff Attorney, reviewed the work of the penal facility subcommittee, which consisted of Co-Chairman Nicholas, Senator Landen and Representative Burkhart. ([Appendix 6](#))

WYOMING STATE PENITENTIARY – FACILITY/OPERATIONS ISSUES

Bob Lampert, Director of the Department of Corrections, Steve Lindley, Deputy Director and Dan Shannon, Prison Division Administrator, represented the agency. Mr. Lampert presented concerns and issues affecting the department overall, including prison population trends, a comparison of population growth rates to crime rates, and impacts of substance abuse treatment budget reductions to recidivism rates. ([Appendix 7A](#))

Director Lampert organized his remaining comments pertaining to WSP operational issues into three areas: 1) staffing; 2) aging and outdated equipment and systems; and 3) ongoing deferential movement of slabs and walls within the facility.

First, Mr. Lindly addressed staffing vacancies at WSP, citing history and challenges. ([Appendix 7B](#)) He recommended a POST (peace officer standards training) salary schedule be implemented department-wide, with projected costs at \$1.3 million/year.

Second, the Department referred to aging and outdated equipment and systems. Mr. Lampert explained that WSP was designed for maximum custody inmates but has actually operated a medium custody inmate facility. As a result, mechanisms designed for less utilization have surpassed their useful lives, requiring staff to address critical issues as opposed to routine maintenance.

Finally, Director Lampert addressed ongoing deferential movement of wall slabs and provided a timeline of the damage and a history of site investigation work, referring to the document provided by the State Construction Department. ([Appendix 7C](#)) Director Lampert explained the process a project must follow before it can be executed, from obtaining funding to design to bids to contracts. He further addressed major areas of repair and immediate need at WSP, including electrical room F (in progress); phone lines in building H (pending); G unit fire suppression (complete); water remediation (partially complete); and doors (ongoing). Additional repairs to electrical switches, the fence alarm system, boilers and the roof are required, but they are not related to building movement.

SUMMARY OF 2016 CONSULTANT REPORT AND CURRENT ACTIVITIES

John Lund, Martin/Martin Inc. (Martin/Martin) discussed the Structural Engineering Reconnaissance Study and Conceptual Cost Estimate of the State Penitentiary submitted to the State Construction Department and the 2016 Task Force on State Penal Facilities on September 14, 2016. ([Appendix 8](#))

Mr. Lund told the Committee his firm was commissioned to complete a comprehensive study of structural problems at WSP and to offer solutions to make the facility viable for long term use. Martin/Martin determined that the cause of structural issues at the WSP, South Facility is attributable to the decision to use slab-on-grade in lieu of structural floors. Mr. Lund stated the lack of moisture control leads to both settling and expansion, and he stressed that drainage and grading are critical and should be addressed by installing a ten foot concrete apron around the building, in addition to sloping onsite drainage to storm sewers. Ultimately, he recommends the installation of structured slabs as originally intended by the

geotechnical engineer. The Central Production Facility (CPF) and K Unit (K) buildings sit on expansive bedrock, so repairs require a different approach: 1) “mudjacking” (lift slabs to original position); 2) deep compaction concrete grouting (densifies soil, reduces settlement); and/or 3) replace current floors with a structured floor. Correction of drainage and grading issues is critical. Mr. Lund predicted that should the modifications recommended in the Structural Engineering Reconnaissance Study and Conceptual Cost Estimate be accomplished, the buildings’ original useful lives will be restored.

Mr. Lund also discussed the findings of the penal facility peer review by Wiss, Janney, Elstner and Associates (WJE). He indicated WJE’s length of time to investigate the issue may not have been enough to make its determinations and that the amount of movement deemed tolerable by WJE is not acceptable in a high security correctional facility. He disagrees with the WJE contention that movement is deep, rather Martin/Martin believes movement is occurring in the shallow bedrock.

The Committee asked Mr. Lund for his advice to the State as it moves forward. He responded with suggestions not to skimp on design, use experienced correctional facility contractors, include the contractor on the design team, and to employ an owner’s representative on site who is paid and accountable for quality assurance.

While Mr. Lund recommends the construction of a new facility, since the State would not conceivably move into it for at least five years, he further recommends the employment of WJE’s findings.

PENAL FACILITY PEER REVIEW STUDY (*INTERIM TOPIC #1*)

Jerry Maly and John Reins of Wiss, Janney, Elstner and Associates (WJE) explained their firm was hired by the Management Council of the Legislature, pursuant to 2017 Session Laws, Chapter 120, Section 332, to conduct a Penal Facility Peer Review Study of Option 1 in the Structural Engineering Reconnaissance Study and Conceptual Cost Estimate of the State Penitentiary submitted to the State Construction Department and the 2016 Task Force on State Penal Facilities on September 14, 2016 by Martin/Martin, Inc. (Martin/Martin). ([Appendix 9A](#)) Mr. Maly and Mr. Reins identified five primary reasons their findings are different from the Martin/Martin report: 1) WJE believes the ground and the building are moving in unison; 2) WJE identified trends in building movements and drew different conclusions of soil movements, i.e. the trend line is leveling out and the building is safe; 3) it is not necessary to remove mud slabs since there is no indication they are causing problems; 4) estimation of future movements are overstated; 5) repairs included in the Martin/Martin report unrelated to building movement total \$10,000,000. ([Appendix 9B](#))

Mr. Maly and Mr. Reins concluded with WJE’s recommendations: develop a budget and a plan to maintain the facility; correct drainage problems around the buildings; repair windows and doors; remove the column outside the F electrical room and make appropriate repairs; and repair the gym.

EVALUATION OF 2016 CONSULTANT REPORT COST ESTIMATES

Shawn Warner, President and Tony Ewalt, Vice President of Sletten Construction of Wyoming Inc. led the committee through a high level estimate of costs to construct a new maximum security facility.

Mr. Warner updated the Committee on current projects at WSP, including repair/replacement of the south gym wall; window frame and glazing repairs; and compaction grouting work at the CPF and K buildings, including drain mitigation measures. Sletten Construction has been selected to be the Construction Manager at Risk (CMAR) for the compaction grouting project, however, no contract has been completed, nor has any work been performed while cost estimates are pending.

WYOMING STATE PENITENTIARY – ALTERNATIVE OPTIONS

GEO Group

Shayn March, Vice President Finance and Selwyn Shakir, Director of Design Services, GEO Group, Inc., highlighted benefits of their company, which owns, operates and leases correctional facilities across the world. Mr. March shared the company's extensive experience and familiarity with correctional facilities and made suggestions for a path forward should the State decide to pursue construction of a new prison. ([Appendix 10](#))

CoreCivic

Lucibeth Mayberry, Executive Vice President Real Estate and John Malloy, Managing Director of Business Development of CoreCivic, Inc. offered possible new-build options through its property solutions line of business, which develops real estate-only partnerships with states. CoreCivic finances, designs and builds new buildings, subsequently leasing them to states though it retains maintenance responsibilities, including employment of maintenance personnel and funding for repairs, while the state assumes operation of the facility. Cost savings are achieved in a variety of ways, including more timely completion of projects, in-house industry experts and competitive financing. ([Appendix 11](#))

At the Committee's behest, Ms. Mayberry offered suggestions for successful projects: on-site owner's representative; comprehensive geotechnical examination prior to construction; extensive design collaboration with the Department of Corrections; and a caution that square footage drives the price, rather than cost per inmate bed.

WYOMING STATE PENITENTIARY – FACILITY/OPERATIONS ISSUES

Bob Lampert, Director and Dan Shannon, Prison Division Administrator of the Department of Corrections, and Del McOmie, State Construction Department Director, addressed the Committee. Mr. McOmie indicated the work on doors and windows is close to completion. Mr. Lampert stated the CPF and K building apron will be complete by October 15, 2017 but that the South Facility apron has not been designed and there are no funds available.

The Committee asked for a summary of available funds from the capital construction appropriation of \$7,750,000 made in 2016, Chapter 97, Section 3. Mr. Lampert replied that \$1.3 million has been obligated for the gym wall, including design work, and \$3 million is estimated for the construction of the F electrical modular building, leaving approximately \$3.2 million. Don Richards, LSO Budget and Fiscal Administrator, identified four sources of funds that may be used for work on the prison: 1) the remainder of funds from the capital construction appropriation; 2) agency operational savings; 3) major maintenance; and 4) appropriated funds from the State's rainy day account (2017 Chapter 120, Section 335 provides the Governor may use up to \$15 million of LSRA funding after all other available sources of funds are exhausted).

Mr. Lampert summarized final points on judicial reform, localized pay needs at WSP, and the need for ongoing maintenance and repairs.

PUBLIC COMMENT

Dee Garrison, President of the Wyoming Association of Correctional Employees, expressed opposition to privatization of the prison and provided handouts to the Committee, which are on file with LSO.

Sabrina King, policy director for the Wyoming chapter of the American Civil Liberties Union, stressed her organization's opposition to prison privatization, while suggesting broader criminal justice reform that will keep more low-risk, nonviolent offenders out of prison.

Copper France, Prison Community Partnership Committee and 2016 Task Force on State Penal Facilities member and Scott Hannum, Rawlins City Manager, urged the Committee to maintain the current location of the penitentiary in Rawlins.

COMMITTEE DIRECTIVES

Representative Walters moved to forward the WJE recommendations for repairs, monitoring and maintenance to the Governor. Senator Burns offered the following amendment:

- 1) Recommend to the Governor that funds be directed to the State Construction Department and the Department of Corrections to complete efforts to address water accumulation at the South Facility, the Central Production Facility and the K Unit buildings (CPF and K) as recommended by Martin/Martin and WJE. Specifically, complete all recommended grading and drainage work, including the enclosed courtyards, recreation yard and outdoor yards and install perimeter aprons around the buildings with concrete drains and sump pit/pump.

The JAC advises that the need to address water accumulation at the WSP is immediate and constitutes an emergency. The failure to perform the work this summer will likely lead to additional costs, create substantial risk to the daily operations of the facility, and may cause structural movement at the facility that will pose additional safety concerns.

- 2) Recommend to the Governor that the compaction grouting at the CPF and K buildings is postponed and that the State Construction Department and the Department of Corrections adhere to and implement the corrective actions recommended by WJE in the peer review study.
- 3) Recommend the Governor direct the State Construction Department to immediately retain a qualified construction management and maintenance expert to oversee all work performed at the facility. The JAC advises the need for this position is immediate and constitutes an emergency. The consultant/expert will be tasked to ensure prompt and quality work and to assist the Department of Corrections with scheduling and overseeing all work to ensure that moisture and drainage issues are addressed on an ongoing basis, including ground water and building movement monitoring and maintenance. Further, the consultant/expert shall regularly report to the State Construction Department, the Governor's Office and the Joint Appropriations Committee on all action and any issues that arise.
- 4) Recommend the Governor direct and approve funds necessary as provided by legislative action.

Through discussion the Committee confirmed ongoing repairs for doors and windows, as well as construction of electrical room F, will proceed. The Committee adopted the motion as amended.

After the Committee meeting and prior to submitting the recommendations to the Governor, the Committee conducted an email vote to reconsider the adopted motion and consequently amend the first point. The reconsidered motion recommended the Governor:

“Direct funds to the State Construction Department and the Department of Corrections to complete efforts to address water accumulation at the South Facility, the Central

Production Facility and the K Unit buildings (CPF and K) as recommended by WJE. Specifically, complete all recommended grading and drainage work to fully and immediately correct all of the surface grading and drainage deficiencies, including the enclosed courtyards, outdoor recreation yards, and outdoor areas. The State Construction Department and Department of Corrections should consider areas where graded soil apron versus concrete aprons are appropriate with consultation from appropriate engineers as to water mitigation and future access to mud slabs, piers, exterior grade beams, etc.”

The motions passed with no votes in opposition.

MEETING ADJOURNMENT

There being no further business, Co-Chair Nicholas adjourned the meeting at 5:46 p.m.

Respectfully submitted,

Senator Bruce Burns, Co-Chair

Committee Meeting Materials Index

Appendix	Appendix Topic	Appendix Description	Appendix Provider
1A	Committee Sign-In Sheet	Lists meeting attendees	Legislative Service Office
1B	Committee Meeting Agenda	Provides an outline of the topics the Committee planned to address at the meeting	Legislative Service Office
2	Department of Family Services, Title IV-E	Title IV-E, Foster Care & Adoption Assistance	Department of Family Services
3A	State Employee Benefits – Review	Background – State Employee Benefits	Legislative Service Office
3B	State Employee Benefits – Review	Wyoming Retirement System Report to the JAC	Wyoming Retirement System
4A	Enterprise Technology Services	Background –Enterprise Technology Services Consolidation, Hardware and Software	Legislative Service Office
4B	Enterprise Technology Services	Department of Enterprise Technology Services Processes and Budget	Department of Enterprise Technology Services
5	State Treasurer’s Office: Implementation of 2017 Supplemental Budget Bill	State Treasurer’s Office: Discussion Topics	State Treasurer
6	Report of State Penal Facility Subcommittee Actions	Report of State Penal Facility Subcommittee Actions	Legislative Service Office
7A	Wyoming State Penitentiary – Facility/Operations Issues	Background statistics	Department of Corrections
7B	Wyoming State	Vacant Positions 2006-2017	Department of

	Penitentiary – Facility/Operations Issues		Corrections
7C	Wyoming State Penitentiary – Facility/Operations Issues	Response to Subcommittee Committee Requests for Information	State Construction Department
8	Summary of 2016 Consultant Report and Current Activities	Wyoming State Penitentiary Structural Engineering Reconnaissance Study	Martin/Martin Wyoming
9A	Penal Facility Peer Review Study	Final Report	Wiss, Janney, Elstner Associates, Inc.
9B	Penal Facility Peer Review Study	Presentation	Wiss, Janney, Elstner Associates, Inc.
10	Wyoming State Penitentiary – Alternative Options	Wyoming State Penitentiary Replacement	GEO Group
11	Wyoming State Penitentiary – Alternative Options	Wyoming State Penitentiary Replacement Facility	CoreCivic
<u>Provided to the Committee but not Addressed</u>			
i	Wyoming State Penitentiary – Facility/Operations Issues	Interim Topic #1, Background Materials	Legislative Service Office
ii	Evaluation of 2016 Consultant Report Cost Estimates	Wyoming Department of Corrections High Security Facility, Rawlins, WY	Sletten Construction of Wyoming